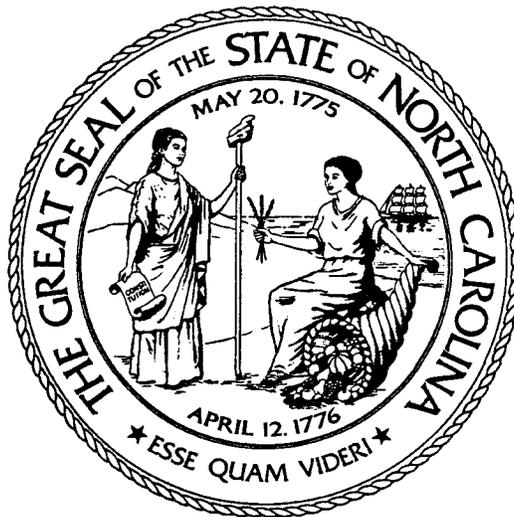


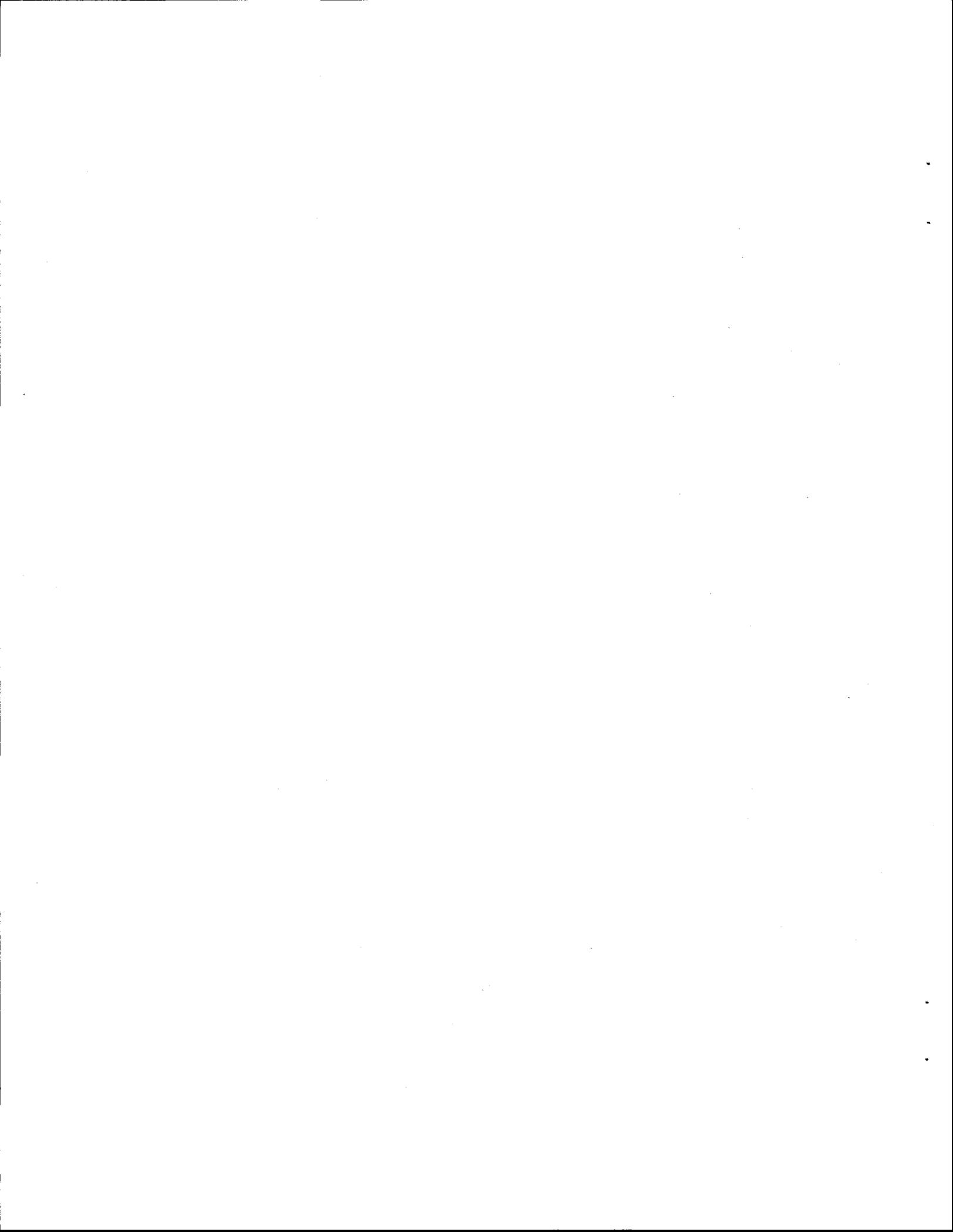
**LEGISLATIVE COMMITTEE ON
NEW LICENSING BOARDS**

REAL ESTATE APPRAISERS



ASSESSMENT REPORT

1995





North Carolina General Assembly

Legislative Services Office
Legislative Office Building
300 N. Salisbury Street, Raleigh, N. C. 27603-5925

GEORGE R. HALL, JR., Legislative Administrative Officer
(919) 733-7044

DONALD W. FULFORD, Director
Automated Systems Division
Suite 400, (919) 733-6834

GERRY F. COHEN, Director
Bill Drafting Division
Suite 100, (919) 733-6660

THOMAS L. COVINGTON, Director
Fiscal Research Division
Suite 619, (919) 733-4910

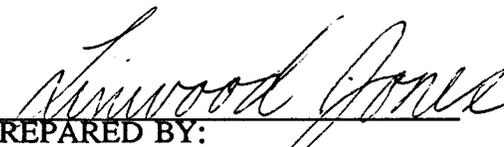
TERRENCE D. SULLIVAN, Director
Research Division
Suite 545, (919) 733-2578

May 31, 1995

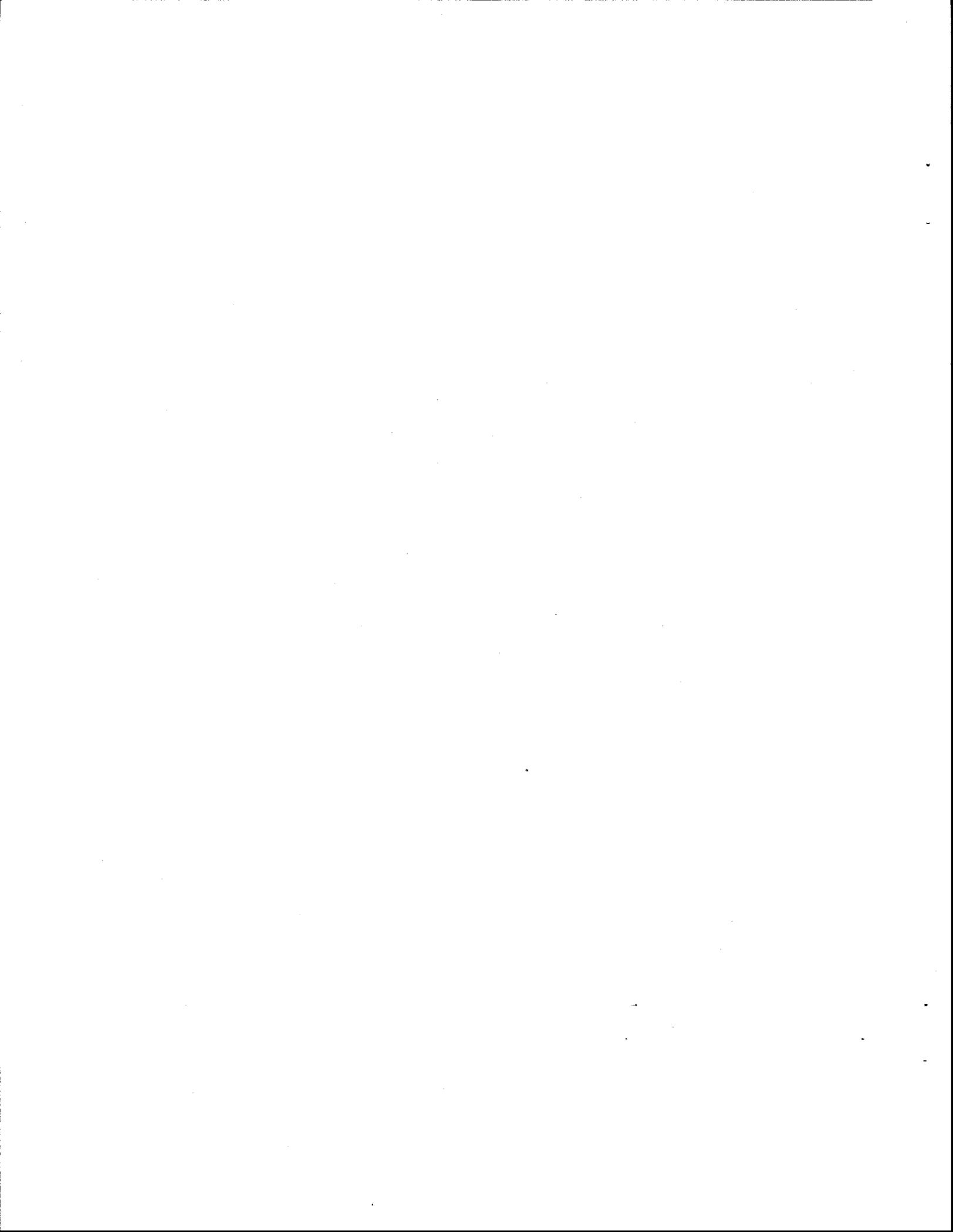
TO THE MEMBERS OF THE GENERAL ASSEMBLY:

Attached for your consideration is the assessment report on the licensing of real estate appraisers (House Bill 443). This report serves as both the preliminary and final assessment reports, as required under Article 18A of Chapter 120 of the General Statutes.


Senator David Parnell, Chairman
Legislative Committee on New Licensing Boards


PREPARED BY:
Linwood Jones, Counsel
Legislative Committee on New Licensing Boards





**MEMBERS OF THE LEGISLATIVE COMMITTEE
ON NEW LICENSING BOARDS**

(1995-96)

Senator David Parnell, Chairman

Senator Frank Ballance

Representative Michael Decker

Senator Fred Hobbs

Representative Linwood Mercer

Senator Paul Smith

Representative Frank Mitchell

Senator R.C. Soles

Representative Wilma Sherrill

ASSESSMENT REPORT

Real estate appraisers evaluate and provide opinions on the value of real estate or specified property interests therein. North Carolina currently has a North Carolina Appraisal Board that certifies real estate appraisers under a voluntary certification system. The North Carolina Appraisers Act under which the Board now operates (Chapter 93E of the General Statutes) prohibits persons from using the titles "State-licensed real estate appraiser" and "State-certified real estate appraiser" unless they have, in fact, complied with the certification or licensure requirements and met the standards for certification or licensure. However, because House Bill 443 will mandate the licensure of appraisers, the bill is subject to review by the Legislative Committee on New Licensing Boards.

Real estate appraisal requires specialized skills and knowledge of appraisal principles as well as knowledge of property ownership and interests, land use controls, property descriptions, lending practices, basic housing construction, and related areas. All states regulate real estate appraisers through either licensure or certification. In addition, federal law requires the use of State-regulated appraisers for certain types of federally-guaranteed loans and federally-related transactions. Regulation has evolved to ensure that consumers can count on reliable and accurate information on the value of their real property and to ensure that both lenders and borrowers can rely on the appraised value of real property serving as collateral for loans. Congress has found in recent studies that faulty appraisals of properties serving as collateral for loans have contributed directly to the insolvency of hundreds of financial institutions nationally, resulting in billions of

dollars of losses to mortgage lenders, private mortgage insurers, federal agencies, and others in the financial lending market.

There are approximately 2,500 persons already certified or licensed by the North Carolina Appraisal Board. The Board routinely receives complaints about unlicensed appraisers but has no disciplinary jurisdiction over these persons. Many of these non-licensed persons use appraisal "designations" conferred by any of the numerous private appraisal trade organizations to imply that they are State-certified or State licensed or that their credentials are equivalent to those of State-certified and State-licensed appraisers.

Note: Although the fees are not increased in this bill, the bill does affect fees because persons not currently licensed must obtain a license and must, among other things, pay the fee required for examination, licensure, etc.

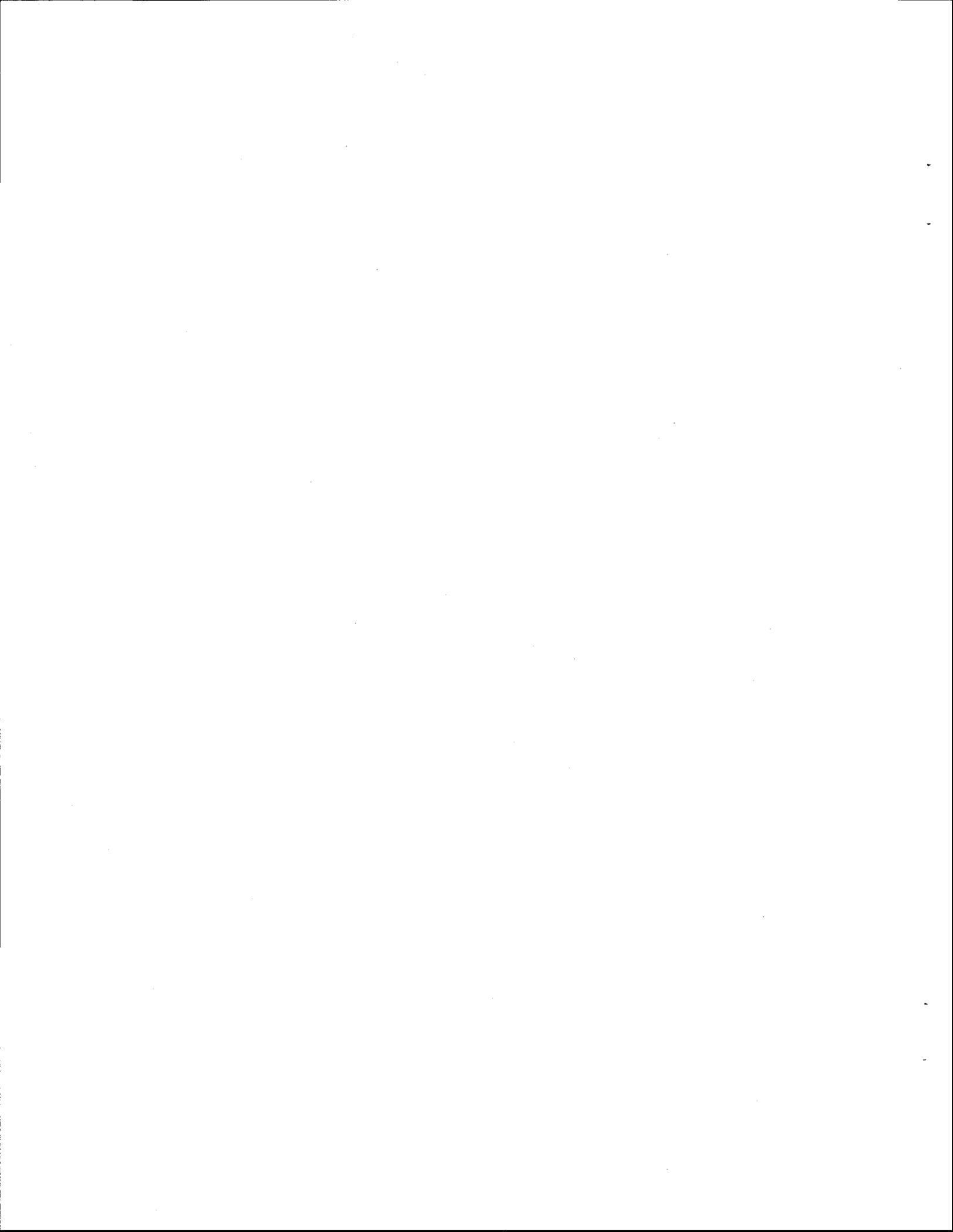
The Legislative Committee on New Licensing Boards makes the following findings:

- (1) The unregulated practice of real estate appraisal can substantially harm or endanger the public health, safety, or welfare, and the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
- (2) Real estate appraisal possesses qualities that distinguish it from ordinary labor.
- (3) Real estate appraisal requires specialized skill and training.
- (4) A substantial majority of the public does not have the knowledge or experience to evaluate the practitioners' competence.
- (5) The public cannot be effectively protected by other means.

- (6) Licensure would not have a substantial adverse economic impact upon consumers.

The Legislative Committee on New Licensing Boards recommends the licensing of real estate appraisers.

This assessment report is based on the proposal to license real estate appraisers, as contained in House Bill 443, and the questionnaire response submitted by the sponsor (attached). Two amendments suggested for adoption by the standing committee to which this bill is assigned are also included.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 443

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H443-ARN-001

Page 1 of _

Date _____, 1995

Comm. Sub.
Amends Title

- 1 moves to amend the bill on page 2, line 33, by deleting "and";
2
3 and on page 2, line 36, by adding "and" and the end of said line;
4
5 and on page 2, lines 36-37, by adding the following between said lines:
6
7 "(5) Employees of farm credit banks that appraise property relating to loans
8 from those banks.";
9
10 and on page 2, line 38, by deleting "(4)" and inserting "(5)".
11
12

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 443

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H443-ALD-4

Page 1 of _

Date _____, 1995

Comm. Sub.
Amends Title

1 moves to amend the bill on page 2, lines 13 through 16,
2 by deleting those lines and substituting:
3 "~~licensed under Chapter 93A of the General Statutes or any other person who is~~
4 ~~not a State-licensed or State-certified real estate appraiser from appraising real~~
5 ~~estate for compensation, performing comparative market analyses for listing~~
6 ~~purposes, provided such persons do the person does not represent themselves~~
7 ~~himself or herself as being State-licensed or State-certified as a real estate~~
8 ~~appraisers, appraiser.~~"; and
9
10 on page 5, lines 12 and 13,
11 by adding between those lines the following:
12 "Sec. 4.1. G.S. 93E-1-5(a) reads as rewritten:
13 '(a) There is created the North Carolina Appraisal Board for the purposes set
14 forth in this Chapter. The Board shall consist of seven members. The Governor
15 shall appoint five members of the Board, and the General Assembly shall appoint
16 two members in accordance with G.S. 120-121, one upon the recommendation of
17 the President Pro Tempore of the Senate and one upon the recommendation of the
18 Speaker of the House of Representatives. Each member appointed by the
19 Governor shall be appointed from a different congressional district. The appointee
20 recommended by the Speaker of the House of Representatives and the appointees
21 of the Governor shall be persons who have been engaged in the business of real
22 estate appraising in this State for at least five years immediately preceding their
23 appointment and appointment; are also State-licensed or State-certified real estate
24 appraisers, appraisers; and, to ensure that all State-licensed and State-certified
25 appraisers have equal representation on the Board, no more than three appointees
26 are members of the same appraiser trade organization, group, or committee at any
27 one time. The appointee recommended by the President Pro Tempore of the
28 Senate shall be a person not involved directly or indirectly in the real estate, real
29 estate appraisal, or the real estate lending industry. Members of the Board shall
30 serve three-year terms, so staggered that the terms of three members expire in one
31 year, the terms of two members expire in the next year, and the terms of two
32 members expire in the third year of each three-year period. The members of the
33 Board shall elect one of their members to serve as chairman of the Board for a

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 443

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H443-ALD-4

Page 2 of _

1 term of one year. The Governor may remove any member of the Board appointed
2 by the Governor for misconduct, incompetency, or neglect of duty. The General
3 Assembly may remove any member appointed by it for the same reasons.
4 Successors shall be appointed by the appointing authority making the original
5 appointment. All vacancies occurring on the Board shall be filled, for the
6 unexpired term, by the appointing authority making the original appointment.
7 Vacancies in appointments made by the General Assembly shall be filled in
8 accordance with G.S. 120-122. Initial terms of office commence July 1, 1994.'"

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



HOUSE BILL 443

~~-(COMMITTEE SUBSTITUTE)~~

An Act To Provide For
Mandatory Licensure and Certification of
Real Estate Appraisers

Report to the Legislative Committee on
New Licensing Boards

May 26, 1995

Prepared by:

North Carolina Appraisal Board

I. A. In what ways has the marketplace failed to regulate adequately the profession or occupation?

Numerous incidents of real estate appraisal abuse have been documented by the Congressional Government Operations Committee's Commerce, Consumer and Monetary Affairs Subcommittee in its investigations of failed and failing financial institutions. In addition, approximately 30 appraisal trade organizations are now in existence, many of which confer appraisal designations on their members without regard to their competency; consequently, the public is unable to distinguish the most qualified appraisers from the least qualified. It has also been found that certain consumers of real estate appraisals (both individuals and institutions) utilize the services of certain appraisers who agree to report a predetermined result, enabling them to manipulate the marketplace.

B. Have there been any complaints about the unregulated profession or occupation? Please give specific examples including complainant's names and addresses.

In addition to those incidents of faulty and fraudulent appraisals found by Congress, the Appraisal Board (and previously the Real Estate Commission), routinely receives complaints involving unlicensed appraisers. No investigation or disciplinary action is conducted because the Board does not have jurisdiction over these individuals. For example, in response to a complaint filed by an

institutional lender in Durham against a real estate licensee, the Commission investigated and found that the real estate licensee had appraised various building lots for a friend so that the friend could obtain a loan collateralized by the property. The licensee admitted that she performed the appraisals as a convenience to the friend and that she did not follow any of the generally accepted standards of practice in performing the appraisal. Instead, she reported the appraised value requested by a friend. On the basis of the appraisals, the lender loaned the owner money which the owner subsequently failed to repay. The lender was forced to foreclose on the property and in so doing suffered a financial loss due to the inflated value which had been assigned to the lots by the appraiser.

II. A. In what ways has the public health, safety, or welfare sustained harm or is imminent danger of harm because of the lack of state regulation?

Faulty and fraudulent real estate appraisals adversely impact on both individual and institutional consumers of real estate appraisals. For example, real estate purchasers may pay more than a reasonable market value (or sellers may receive less) due to incompetently performed appraisals. And lending and thrift institutions, which are the primary consumers of real estate appraisals, may lend more for properties than can be supported by the properties' value, resulting in a potential, substantial loss to the institution and its depositors in the event of borrower default. According to a September, 1988 report of a Congressional Subcommittee "faulty and fraudulent real estate appraisals have become an

increasingly serious national problem whose effects are widespread, pervasive, and costly. Abusive appraisals have contributed directly to the insolvency of hundreds of the Nation's financial institutions and have helped cause billions of dollars in losses to mortgage lenders, private mortgage insurers, investors in mortgage backed securities, and to numerous Federal agencies, particularly those that administer the Federal Deposit Insurance funds and mortgage guarantee programs."

B. Please give specific examples including names and addresses.

See II.A.

III. A. Is there potential for substantial harm or danger by the profession or occupation to the public health safety or welfare? How can this potential for substantial harm or danger be recognized?

The potential for harm to the public welfare as a result of the acts of incompetent and dishonest appraisers has been recognized and documented by Congress in connection with its exhaustive investigation of the savings and loan industry.

B. Has this potential harm or danger to the public been recognized by other states or the federal government through the licensing or certification process?

Please list the other states and give the relevant statutory citations.

All states currently regulate real estate appraisers. In 19 states and 4 territories licensure is mandatory. (Alabama, Arizona, Colorado, Connecticut, Delaware,

Washington DC, Georgia, Idaho, Maine, Michigan, Minnesota, Nebraska, Nevada, New Mexico, Oregon, Utah, Virginia, West Virginia, Tennessee, Guam, Northern Mariannas, Puerto Rico, and the Virgin Islands. In November, 1988, the federal Office of Management and Budget issued a circular requiring the use of state-regulated real estate appraisers for certain VA, FHA and other loans after July 1, 1991. Federal legislation passed in 1992 requires the use of "State-licensed" or "State-certified" appraisers for all appraisals in "federally related transactions," constituting approximately 87% of all appraisals. Fannie Mae, Freddie Mac and HUD have each implemented administrative rules which require that appraisers be "State-licensed" or "State-certified."

IV. A. What will be the economic advantages of licensing to the public?

Individual consumers will be better able to identify the more competent appraisers and better assure that they are purchasing/selling real estate at its fair market value. Institutions (banks, savings & loan associations, savings banks, credit unions, etc.) will have available appraisers qualified by the federal government to perform appraisals for their institutions, and they will be better assured that their mortgage loans are adequately collateralized. Governmental agencies that guarantee, insure, and purchase mortgage loans will likewise be better assured that the value of mortgaged properties supports the loans.

B. What will be the economic disadvantages of licensing to the public?

Voluntary licensure and certification of real estate appraisers could result in increased appraisal fees as a result of appraisals which are more thoroughly performed by more competent and knowledgeable appraisers.

C. What will be the economic advantages of licensing to the practitioners?

If pending federal legislation is enacted and conforming state legislation is not, then North Carolina appraisers will be barred from performing appraisal in approximately 87% of all real estate transactions. The regulatory plan proposed will also provide increased educational opportunities for appraisers as well as a mechanism for more knowledgeable appraisers to identify themselves to the public.

D. What will be the economic disadvantages of licensing to the practitioners?

Practitioners who want to become state licensed or certified must complete education and examination requirements and may be subjected to continuing education requirements, necessitating expenditure of their time and money for licensing and education fees. Practitioners who chose not to become state licensed or certified will likely lose creditability with consumers and therefore loss of appraisal business.

E. Please give other potential benefits to the public of licensing that would outweigh the potential harmful effects of licensure such as a decrease in the

availability of practitioners and higher cost to the public.

Mandatory licensure would permit the state to regulate the quality of all appraisal work and would grant the public recourse against all appraisers.

- V. A. **Please detail the specific specialized skills or training that distinguish the occupation or profession from ordinary labor. How is each justified?**

Appraising real estate requires special knowledge of appraisal principles and practices including a thorough understanding of property ownership and interests, land use controls, property descriptions, real estate transactions, lending practices, basic housing construction, and many of the related topics.

- B. **What are other qualities of the profession or occupation that distinguish it from ordinary labor?**

In addition to the ability to grasp abstract concepts and comprehend and apply technical data, real estate appraisers must possess the ability to pay close attention to detail, perform mathematical computations and complete thorough and comprehensive narrative reports by compiling and analyzing information obtained from numerous sources.

- VI. A. **Will licensing requirements cover all practicing members of the occupation or profession? If any practitioners of the profession or occupation will be exempt, what is the rationale for the exemption?**

Yes, although real estate brokers and salespeople (who are not members of the same profession) would remain permitted to perform comparative market analysis.

B. What is the approximate number of persons who will be regulated and the number of persons who are likely to utilize the services of the occupation or profession?

There are currently approximately 2,500 persons licensed by the Appraisal Board. Although no figures are available on the number of appraisals performed in our State, the North Carolina Association of REALTORS reports that *25,000 existing homes were sold in 11 North Carolina cities during 1988 totaling *2,500,000,000. This does not, of course, include any new homes or non-residential property for which appraisals are also required.

VII. What kind of knowledge or experience does the public need to have to be able to evaluate the services offered by the occupation or profession?

The public must be able to identify qualified practitioners by a recognizable title or designation, evidencing that the practitioner has satisfied meaningful competency requirements and subscribes to an acceptable standard of practice. Identifying qualified practitioners has become increasingly difficult due to the emergence of various private appraisal organizations which confer appraisal designations on persons to use the title "State-licensed" or "State-certified" real estate appraiser.

VIII. Does the occupational or professional group have an established code of ethics, a voluntary certification program, or other measures to ensure a minimum quality of service? Please document.

Various private appraisal trade organizations have adopted standards of practice for their members. In addition, The Appraisal Foundation (a nonprofit corporation established in 1987 under the laws of Illinois) has adopted "Uniform Standards of Professional Appraisal Practice" governing the activities of practitioners in its eight member institutions. The Appraisal Foundation's Standards are mandated by federal legislation.

IX. Please cite and document extent, if any, other licensing board in North Carolina regulate similar or parallel functions to the profession or occupation.

No other licensing board in North Carolina regulates general real estate appraisers; however, the North Carolina Real Estate Commission licenses and regulates real estate brokers and salesmen, constituting an estimated 75% of all practicing real estate appraisers. The North Carolina Department of Revenue certifies ad valorem tax appraisers pursuant to GS 105-294.

